

# **Bond Case Briefs**

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## **SCHOOL CONSTRUCTION BONDS - ALASKA**

### **North Slope Borough v. State**

**Supreme Court of Alaska - April 2, 2021 - P.3d - 2021 WL 1236786**

Municipality sought judicial review of Department of Education and Early Development decision to deny reimbursement for school construction bonds which did not meet statutory requirement of equal repayments for a minimum ten year period, despite prior reimbursement of similar bonds.

The Superior Court denied request for trial de novo and affirmed. Municipality appealed.

The Supreme Court held that:

- Municipality was not entitled to trial de novo;
- Deferential standard of review was appropriate standard for hearing officer's review;
- Court would apply reasonable basis review;
- Determination that municipality's bonds did not comply with statute was reasonable;
- Determination was not a new regulation to which the Administrative Procedure Act applied;
- Doctrine of substantial compliance did not apply; and
- Department was not equitably estopped from denying municipality's request for reimbursement.

Municipality was not entitled to trial de novo on challenge to Department of Education and Early Development decision denying reimbursement for municipal school construction bonds on grounds that bonds did not meet equal repayment payments requirement for reimbursement; municipality had stipulated to summary adjudication at agency level, record at the administrative hearing provided an adequate basis for the hearing officer's decision, and there were no factual disputes.

Deferential standard of review, rather than standard akin to summary judgment, was appropriate standard for hearing officer's review of Department of Education and Early Development decision to deny reimbursement for school construction bond payments which were not repaid in equal payments.

Supreme Court would apply reasonable basis review to Department of Education and Early Development determination that municipal school construction bonds did not qualify for reimbursement because they were not to be repaid in approximately equal payments; whether the bond structure furthered the purpose of the reimbursement program was a question within the Department's expertise, and whether the bonds provided budget certainty for the Department or the State was a policy question about managing the public fisc that could only be determined by looking to unique internal government policy considerations.

Department of Education and Early Development determination that word "bond," in statute allowing municipalities to be reimbursed for bond payments related to school construction and renovation which were to be repaid in approximately equal payments over a period of at least 10 years, referred to each bond as a whole, rather than only the school debt portion of the bond, was reasonable, and thus determination that municipality's bonds did not comply with statute was also reasonable; plain language of the statute indicated that term "bond" did not refer to any

subcomponent, and treating bonds as a whole was crucial to the Department's process of verifying a municipality's payment information.

Department of Education and Early Development determination that municipality's bonds did not meet requirements for state repayment of bonds for school construction was not a new regulation to which the Administrative Procedure Act applied, although Department employee had reimbursed prior, similar bonds; employee's prior failure to apply the controlling law was not a formal interpretation of the statute that would bind future review, Department's new interpretation corrected a previous oversight, and it was neither expansive or unforeseeable that once it learned of its previous failure to apply the law, the Department would correct that failure.

Doctrine of substantial compliance did not apply to allow Department of Education and Early Development reimbursement of municipality's bonds which did not comply with statutory requirements for reimbursement of bonds for school construction funding, although Department had reimbursed similar, earlier bond repayments; Legislative concern regarding predictability of future appropriations led to requirement of a ten-year minimum term of approximately equal bond payments, while bonds at issue contained large balloon payments near the end of their terms.

Department of Education and Early Development was not equitably estopped from denying municipality's request for reimbursement of school construction bonds on grounds that reimbursement requests for prior, similar bonds had been approved, as reimbursement would require Department to violate statutory requirement that bonds be subject to relatively equal payments for a minimum ten year period.